HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Appeal No.1335 of 2006

Between

Baswada Sathi Reddy and others ..Appellants

AND

The Government of Andhra Pradesh represented by its Principal Secretary, Revenue Department and others ..Respondents

:: JUDGMENT ::

Counsel for the appellants	Sri S.Ramachandra Rao, Senior Advocate for Sri K.R.Prabhakar
Counsel for respondents	Government Pleader for Revenue (Assignment)

22.12.2006

Per G.S.Singhvi, CJ

This appeal is directed against order dated 8.12.2006 passed by the learned Single Judge whereby he dismissed the writ petition filed by the appellants for quashing show cause notices dated 22.11.2006 issued by Mandal Revenue Officer, Toopran Mandal, Medak District proposing to resume the lands assigned to them or their predecessors.

The appellants are residents of Muppireddipalli, Jeedipalli and Kallakal Village of Toopran Mandal, Medak District. They claim to be in possession of the lands in question for the last more than 50 years. Pattas are said to have been issued to the appellants in accordance with Laoni Rules contained in G.O.Ms.No.1406, Revenue, dated 26-7-1958 read with G.O.Ms.No.1724, Revenue, dated 26-8-1959, which were issued under the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 F (for short, 'the Act'). In some cases, the pattas are said to have been issued to the predecessors of the appellants. On

22-11-2006, the Mandal Revenue Officer issued notices to the appellants proposing to resume the assigned lands and asked them to submit their explanation. The appellants challenged the show cause notices in Writ Petition No.25441 of 2006. The learned Single Judge referred to the judgments of the Supreme Court in **State of U.P. v. Shri Brahma Datta Sarma**[1], **Special Director v. Mohd. Ghulam Ghouse**[2], the judgments of this Court in **Special Officer, ULC v. M.Vijayalakshmi**[3], **K.Veerabhadrudu v. Special Deputy**

Collector[4], **State of A.P. V. P.Peda Chinnayya**[5], **State of A.P. v. Bondapalli Sanyasi**[6] and **LAO-cum_RDO, Chevella Division, Hyderabad v. Mekala Pandu**[7] and held that the writ petition is premature and accordingly dismissed the same.

Sri S.Ramachandra Rao, Senior Advocate appearing for the appellants invited our attention to the provisions contained in the Act and the policy contained in G.O.Ms.No.1406, dated 25.7.1958 and argued that in the absence of express enumeration in the Act and the Rules, the Mandal Revenue Officer could not have incorporated condition No.12 in the D-Form patta issued in favour of the appellants and/or their predecessors and, in any case, the same cannot be made basis for resumption of the land because it amounts to compulsory deprivation of the property right of the appellants without paying them compensation. He criticized the order under challenge by arguing that the view taken by the learned Single Judge on the maintainability of the writ petition is hyper-technical. Learned counsel relied on the decisions of the Supreme Court in **State of Bombay v. United Motors (India) Ltd.,**[8], **Himmatlal Harilal Mehta v. State of Madhya Pradesh**[9] and **Bengal Immunity Company Ltd., v. State of Bihar**[10] and argued that the writ petition filed with the compliant of threatened violation of the constitutional rights cannot be thrown out as premature.

Learned Government Pleader for Revenue (Assignment) supported the order under challenge and argued that the appellants can have no substantive objection against the proposed resumption of land because the action is being taken in accordance with the conditions specified in the D-Form patta. On the basis of the

instructions given to him by the departmental authorities, the learned Government Pleader also made a statement that if the land of the appellants is resumed, then they will not only be paid compensation, but will also be provided with house-sites and one member of the family will be provided employment in the industrial zone to be set up by the Andhra Pradesh Industrial Infrastructure Corporation Limited.

In the context of the statement made by the learned Government Pleader, Sri S.Ramachandra Rao lamented that neither an affidavit has been filed nor any such document has been placed before the Court to show that the appellants will be paid compensation in lieu of the resumption of their land.

We have given serious thought to the entire matter. We agree with the learned Single Judge that the writ petition filed by the appellants was premature. A reading of notice dated 22.11.2006 issued by the Mandal Revenue Officer shows that the officer concerned has simply called upon the appellants to show cause against the proposed resumption of land. They could have filed written objections against the proposed action and convinced the officer concerned that their lands should not be resumed because they do not have any other source of sustenance. If, after considering the objections of the petitioners-appellants, the officer concerned had passed order for resumption of the land, then the appellants could avail appropriate legal remedy including the one by seeking intervention of this Court under Article 226 of the Constitution. However, without adopting this usual course, the appellants rushed to this Court and made a grievance against the show cause notice, which did not find favour with the learned Single Judge. In our opinion, the view taken by the learned Single Judge on the issue of maintainability of the writ petition cannot be termed as erroneous or contrary to the

established principles of law.

At this stage, we may mention that D-Form patta certificates issued in favour of the appellants contained a clear stipulation regarding possible resumption of land without payment of compensation. For the sake of convenient reference, condition No.12 of D-Form patta certificate issued in favour of appellant No.2 – Roda Sailu S/o.Yellaiah is extracted below:

> "12. In the event of the land being required for a project or any other public purpose, the land will be resumed and no compensation shall be paid to the assignee (the decision of the Government or other authority empowered by them in this behalf shall be final on the question whether the purpose for which the land is to be resumed is a public purpose or not."

Since the action has been initiated against the appellants in accordance with the condition incorporated in the D-Form patta, we do not find any justification to interfere at the stage of show cause notice.

In the result, the appeal is dismissed. However, it is made clear that if, after considering the objections which may be filed by the appellants within two weeks from today, the officer concerned comes to the conclusion that the land of the appellants should be resumed, then he shall make a specific order on the issue of payment of compensation, providing house sites and employment to one member of the family of the assignee. We also make it clear that this order shall not preclude the aggrieved person from challenging the order of resumption by availing appropriate legal remedy.

As a sequel to dismissal of the writ appeal, WAMP No.2830 of 2006 filed by the appellants for interim relief is also dismissed.

G.S.SINGHVI, CJ

22.12.2006

C.V.NAGARJUNA REDDY, J

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[1] AIR 1987 SC 943

[2] (2000) 3 SCC 440

[3] 1998 (6) ALT 627

[4] 2000 (1) ALT 452

[5] 1996 (2) ALD 1215 (FB) = 1997 (1) ALT 498 (FB)

[6] 2002 (2) ALD 1 (LB) = 2002 (1) ALT 543 (LB)

[7] 2004 (2) ALD 451 (LB)

[8] 1953 SCR 1069

[9] 1954 SCR 1122

[10] 1955 (2) SCR 603